



राजपत्र, हिमाचल प्रदेश

(असाधारण)

हिमाचल प्रदेश राज्यशासन द्वारा प्रकाशित

शिमला, वीरवार, 24 जनवरी, 1974/4 माघ, 1895

GOVERNMENT OF HIMACHAL PRADESH PANCHAYATI RAJ DEPARTMENT NOTIFICATION

Simla-4, the 31st December, 1973

No. 6-1/69-CDP (PNT).—In exercise of the powers conferred by section 249 of the Himachal Pradesh Panchayati Raj Act, 1968 (Act No. 19 of 1970), the Governor, Himachal Pradesh proposes to make the following draft amendments in Himachal Pradesh Nyaya Panchayat Rules, 1972 and the same are hereby published in the Official Gazette for the general information of the public and a notice is hereby given that these draft amendments will be taken into consideration after 15 days from the date of its publication in the Official Gazette.

If any person affected thereby, desires to take any objection or has any suggestion to make, regarding these amendments he can send the same to the Director of Panchayati Raj, Himachal Pradesh, Simla-4, before the expiry of the above period. The objections or suggestions if any, so received will be taken into consideration before finalising these draft amendments in the rules.

DRAFT AMENDMENTS

- Short title and commencement.
Amendment of rule 1.
1. (1) These rules may be called the Himachal Pradesh Nyaya Panchayat (First Amendment) Rules, 1973.
- (2) These shall come into force at once.
2. In sub-rule (iii) of rule 1 of the Himachal Pradesh Nyaya Panchayat Rules, 1972 (hereinafter called the "said rules"), for the word "corresponding" occurring for the first time in this sub-rule the word "pertaining" shall be substituted.
- Amendment of rule 2.
3. In rule 2 of the said rules, the following amendments shall be made, namely:—
- (a) the words "pertaining" and "said" occurring in clause (b) shall be omitted;
- (b) for clause (d) the following clause (d) shall be substituted, namely:—
“(d) Other words and expressions used and not defined in these rules but defined in the Act shall have the meanings respectively assigned to them in the Act.”.
- Amendment of rule 3.
4. The existing rule 3 of the said rules shall be numbered as sub-rule (1) and thereafter the following sub-rule (2) shall be inserted, namely:—
“(2) The State Government or the prescribed authority under sub-rule (1) shall establish a Nyaya Panchayat with an area of jurisdiction coterminous with an area of jurisdiction of a Gram Panchayat established under section 9 of the Act by a notification with effect from such date as may be specified in the said notification.”
- Amendment of rule 4.
5. In the heading of rule 4 of the said rules, the following brackets, words and figures shall be inserted at the end, namely:—
“Section 195 (2) of the Act”
- Amendment of rule 6.
6. For existing rule 6 of the said rules the following rule shall be substituted, namely:—
“6. *Removal (Section 109 of the Act).*—The Deputy Commissioner may during the course of enquiry or otherwise for any reason recorded in writing, suspend a Nyaya Panch for any of the reasons for which he can be removed and debar him from taking part in any act or proceedings of the said body during that period and order him to hand over the records, money or any property of said the body to any person authorised by him in this behalf.
The Deputy Commissioner may, after such inquiry as he may deem fit and after giving a reasonable opportunity to the person concerned, remove the Nyaya Panch of the Nyaya Panchayat, if he—
- (a) absents himself without sufficient cause from more than three consecutive sittings, or
- (b) refuses to act or becomes incapable of acting ; or
- (c) has been guilty of misconduct in the discharge of his duties; or
- (d) is undesirable in the interest of public; or
- (e) incurs any disqualification for being a member of the Gram Panchayat under section 9 (5) of the Act.”.
- Amendment of rule 7.
7. For the existing rule 7 of the said rules, the following rule 7 shall be substituted, namely:—
“7. *Nyaya Panchayats' time and place of meeting (section 249 (2) (ii) of the Act).*—Subject to the provisions contained in rule 10 the

Nyaya Panchayat shall hold meetings at the headquarters of the Gram Panchayat on such date and time as the Sarpanch may fix."

8. In the existing rule 10 of the said rules, for the fullstop the following words shall be substituted at the end, namely:— Amendment of rule 10.

"and the list so affixed shall also be circulated among the Nyaya Panches."

9. For the existing heading and rule 13 of the said rules, the following heading and rule shall be substituted, namely:— Amendment of rule 13.

"13(1) *Application under Section 223 of the Act and constitution of bench of Nyaya Panchayat under section 204 and 224 of the Act.*—As soon as application orally or in writing is made under section 223, its substance shall be recorded in the prescribed register and the signature or thumb impression of the applicant shall be taken in the register.

(2) The Sarpanch or Nyaya Panch receiving the application shall, under section 224 record all particulars required under section 202 for determining territorial jurisdiction and in cases of civil suit further record its description and valuation and in a criminal case, the nature of offences, and, if possible, particulars of the matter mentioned in section 214.

(3) (i) The Sarpanch or in his absence such Nyaya Panch as has been appointed by the Sarpanch in his behalf shall form a bench of three Nyaya Panches keeping in view the provisions of section 200 of the Act, for the trial and decision of the case, suit or proceeding.

(ii) Every bench shall, unless the Sarpanch is a member of it, in which case he will be the Chairman, choose one of the Nyaya Panches to be the Chairman of that bench.

(iii) If in a suit, case or proceeding the Sarpanch of a Nyaya Panchayat or the Nyaya Panch, appointed under sub-rule (3) (i), or the near relation, employer and employee or partner in the business of his, is a party or in which any of them may be personally interested or the Sarpanch or the Nyaya Panch finds any difficulty to form a bench according to sub-rule (3) (i), the Sarpanch or the Nyaya Panch, instead of forming a bench under the said sub-rule immediately after the institution of the suit, case or proceeding, as the case may be, submit the papers to the Sub-Divisional Judge who shall constitute a bench for its trial from amongst the Nyaya Panches of the Nyaya Panchayat."

10. In the existing rule 14 of the said rules, the words "in accordance with the procedure laid down in rules 45 to 59" shall be inserted in between the words "Parties concerned" and "and shall." Amendment of rule 14.

11. In rule 15 of the said rules, the following amendments shall be made, namely:— Amendment of rule 15.

(a) for the existing heading, the following heading shall be substituted:—

"Examination of parties and their witnesses (section 224 (3) of the Act)",

(b) for sub-rule (3) the following sub-rule (3) shall be substituted:—
“(3) Before examining any person except an accused, a Nyaya Panchayat shall administer him the following oath or affirmation:—

“I shall state the truth, and nothing but truth so help me god.
or

I solemnly affirm that I shall state the truth, and nothing but truth.”.

Amendment of rule 17. 12. In rule 17 of the said rules, for the words, “the case has been finally disposed off” the words, “the period of limitation for appeal and revision is over”, shall be substituted.

Amendment of rule 18. 13. In sub-rule (2) of rule 18 of the said rules for the words “the woman tendering witness” the word “her” shall be substituted.

Amendment of rule 20. 14. In rule 20 of the said rules the comma and words, “,other than police case, either the complainant or” shall be deleted.

Amendment of rule 21. 15. For the sign “,” occurring between the words “the Sarpanch” and “the Secretary” in rule 21 of the said rules the word “or” shall be substituted.

Amendment of rule 22. 16. After the word “Pahari” occurring in rule 22 of the said rules, the words “in Devnagri script” shall be inserted.

Amendment of rule 23. 17. In rule 23 of the said rules, the word “and” occurring between the words “working hours” and “the working days” shall be substituted with the word “on”.

Amendment of rule 29. 18. For existing rule 29 of the said rule the following rule shall be substituted, namely:—

“29. If the appellant fails to appear, the Nyaya Panchayat shall dismiss the appeal and may as well award costs to the respondent if in attendance up to an amount not exceeding rupees ten”.

Amendment of rule 30. 19. For existing rule 30 of the said rules the following rule 30 shall be substituted:—

“30. If in the case of an appeal civil or criminal, the respondent fails to appear in spite of due notice the Nyaya Panchayat shall proceed to hear the appeal *ex-parte*.”.

Amendment of rule 35. 20. For the existing rule 35 of the said rules, the following rule 35 shall be substituted, namely:—

“35. All notices to the parties and the Nyaya Panches issued under rules 14 and 27 shall be required to be returned before the date of hearing and in case service has not been effected, and the parties remain absent, then the Sarpanch shall adjourn the case and shall inform the Nyaya Panches of such decision.”.

Amendment of rule 40. 21. In rule 40 of the said rules, the word “with” shall be substituted with the word “by”.

Amendment of rule 44. 22. For the words “such fund in account book” occurring in sub-rule (2) of rule 44 of the said rules the words “for such fund an account book”, shall be substituted.

Amendment of rule 47. 23. In rule 47 of the said rules for the words “or under the law in force” shall be substituted with the words “or under any other law in force.”.

24. In rule 48 of the said rules for the figures and words "14 to 35", the figures, comma and words, "14, 27 and 35" shall be substituted. Amendment of rule 48.
25. In rule 49 of the said rules, the words "process server" shall be substituted with the words "person serving the summons or notice." Amendment of rule 49.
26. In rule 50 of the said rules, the words "or process server" shall be deleted. Amendment of rule 50.
27. The existing rule 53 of the said rules shall be substituted with the following rule:— Amendment of rule 53.
- "53. (1) If the person to be summoned by Nyaya Panchayat in a suit, a case or proceedings resides outside the jurisdiction of the Nyaya Panchayat in Himachal Pradesh, the Nyaya Panchayat shall send the summons by post or otherwise to the Nyaya Panchayat or the Court within whose jurisdiction person on whom it is to be served resides and such Nyaya Panchayat or Court shall cause it to be served as if it were its own summons and shall return the duplicate to the Nyaya Panchayat concerned.
- (2) If the person to be summoned by the Nyaya Panchayat in a suit, a case or proceedings resides outside Himachal Pradesh, the Nyaya Panchayat shall send the summons by post to the Civil Court within whose jurisdiction person on whom it is to be served resides and such court shall cause it to be served as if it were its own summons and shall return the duplicate to the Nyaya Panchayat concerned.
- (3) If the person summoned under sub-rules (1) and (2) is a witness, the Nyaya Panchayat shall require the person at whose instance the summons is to be issued to deposit diet money payable to the witness under these rules before the summon is issued. The amount of the diet money shall be noted on the summons and shall be paid to the witness on his appearance."
28. In rule 54 of the said rules, the words "of its own motion" shall be deleted. Amendment of rule 54.
29. In rule 58 of the said rules, the following amendments shall be made, namely:— Amendment of rule 58.
- (a) in clause (ii) for the words "Actual expenses incurred upto a maximum of twenty five paise per kilometer", the words "actual bus fare", shall be substituted;
- (b) in clause (iii) for the words "one and a half railway fare of a class considered suitable by the Sarpanch", the words, "one railway fare of a class considered suitable by the Sarpanch" shall be substituted;
- (c) in clause (iv), the words "or officer" shall be deleted.
30. For the existing rule 60 of the said rules, the following rule shall be substituted, namely:— Amendment of rule 60.
- "60. The Nyaya Panchayat or any Nyaya Panch of it duly authorised in this behalf may, for ascertaining facts conducive to the proper disposal of a case or reference, enter upon any land or building, at any time between sunrise and sunset after giving twenty-four hours notice to the occupier, or when there is no occupier, to the owner of such land or in his absence to his representative. If the land or building is in the occupation of a woman who

according to the custom of the country do not appear in the public, due notice may be given to her to withdraw.”.

Amendment
of rule 61.

31. For the existing rule 61 of the said rules, the following rule shall be substituted, namely:—

“61(1) The decree holder or a person in whose favour an order has been passed, may, after the passing of the decree or order put in an application for its execution on payment of the same fee as is provided for the institution of the original suit, case or proceedings before the Nyaya Panchayat which passed the decree or order, and the same shall be included in the cost.

(2) The Nyaya Panchayat shall issue a notice to the opposite party to pay up the decretal amount or comply with the order within thirty days or such further time not exceeding three months as it may deem fit to allow after the notice is served. If the amount is not paid or order not complied with within the period specified, the decree or order shall be sent to the Sub-Divisional Judge, for execution as provided in sub-section (2) of section 242 of the Act.”.

Amendment
of rule 64.

32. The following heading shall be given to rule 64 of the said rules:—
“Consigning of the records to the general record room of the District”.

Amendment
of rule 67.

33. In rule 67 of the said rules, the following words shall be added at the end:—

“The inspection of records consigned to the record room shall be governed by the rules and regulations regulating the inspection of such records in the general record room.”.

Amendment
of rule 73.

34. In sub-rule (3) of rule 73 of the said rules, after the word “referred”, the word “to” shall be inserted.

Amendment
of rule 74.

35. For the words “Naib-Sarpanch” occurring in rule 74 of the said rules, the words, “in the absence of the Sarpanch, the Naib-Sarpanch” shall be substituted.

Amendment
of rule 75.

36. In rule 75 of the said rules, the following heading shall be inserted:—
“Custody of cash-in-hand”.

Amendment
of Forms.

37. In the forms appended to said rules, the following amendments shall be made, namely:—

(1) (i) in the headlines of Form I, the words “OR DECREE” shall be omitted;

(ii) in Form I, for the sentence beginning with the words “subject matter” and ending with “Nyaya Panches” the following sentence shall be substituted:

“Subject matter of suit, contention of either side, gist of the evidence from each side, findings with reasons and the judgment, with the signature of the Nyaya Panches;

(2) (i) in the headlines of Form II, the words “OR DECREE” shall be omitted;

(ii) in Form II, for the sentence beginning with the words “Substance” and ending with the words “Nyaya Panches”, the following sentence shall be substituted:—

“Substance of the complaint and the plea of the accused gist of the evidence from both sides, the findings with reasons and the judgment with the signature of the Nyaya Panches.”.

- (3) (i) in Form IV the dots after the words "on account of" shall be substituted with comma and dash ",—";
- (ii) in Form IV, the words "Naib-Sarpanch" shall be substituted with the words "Nyaya Panch".
- (4) in Form VIII after the words "case" at item No. 1, the words, "along with particulars of the parties" be shall added.
- (5) (i) in Form IX for the word "discussion" occurring in item No. 7, the word "decision" shall be substituted;
- (ii) in Form IX for the word "Judgment" occurring in item No. 8, the words "Result of the Decision" shall be substituted.
- (6) (i) in Form X for the word "Judgment" occurring in item No. 8, the word "Result of the Decision" shall be substituted;
- (ii) in Form X after item No. 8 so amended, new item "8A" shall be inserted as follows—
"8A. Whether any appeal or revision petition filed."
- (7) in Form XI for the word "chowkidar" wherever it occurs, the word "person serving the summon or notice" shall be substituted.
- (8) in Form XII for the word "Judgment" occurring in item No. 7, the word "Result of the Decision" shall be substituted.
- (9) in Form XIII—
(a) after the word "recovered" in item No. 8, the words "by the Nyaya Panchayat" shall be inserted; and
(b) for the existing item No. 11, the following item shall be inserted:—
"11(a) Amount recovered by the Sub-Divisional Judge.
11(b) Date of recovery by the Sub-Divisional Judge."

PRITPAL SINGH,
Under Secretary.

